

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

UNITED STATES OF AMERICA)	
)	No. 07 CR 50069
v.)	
)	Judge Frederick J. Kapala
BROCK B. BARRETT)	

**MOTION OF THE UNITED STATES FOR ENTRY OF
PRELIMINARY ORDER OF FORFEITURE**

The United States of America, through PATRICK J. FITZGERALD, United States Attorney for the Northern District of Illinois, moves for entry of a preliminary order of forfeiture as to specific property pursuant to the provisions of Title 18, United States Code, Section 924(d)(1), Title 28, United States Code, Section 2461(c), and Fed. R. Crim. P. 32.2, and in support thereof submits the following:

1. On December 18, 2007, an indictment was returned charging BROCK B. BARRETT with having possessed a firearm after having been previously convicted of a felony, in violation of Title 18, United States Code, Section 922(g)(1), among other violations.
2. The indictment sought forfeiture to the United States of specific property, namely, one Glock, Model 26, 9mm handgun, serial number EVK059US, pursuant to the provisions of 18 U.S.C. § 924(d)(1) and 28 U.S.C. § 2461(c).
3. On May 9, 2008, pursuant to Fed. R. Crim. P. 11, defendant BROCK B. BARRETT entered a voluntary plea of guilty to Count One of the indictment, charging him with possessing a firearm after having been previously convicted of a felony, thereby making certain property subject to forfeiture pursuant to 18 U.S.C. § 924(d)(1).

4. In the plea agreement entered between the defendant and the United States, defendant BROCK B. BARRETT agreed that the above described firearm is subject to forfeiture and further agreed to relinquish any right, title or ownership interest that he has in this property pursuant to 18 U.S.C. § 924(d)(1) and 28 U.S.C. § 2461(c).

5. Accordingly, the United States requests that this Court enter a preliminary order of forfeiture, pursuant to 18 U.S.C. § 924(d)(1) and 28 U.S.C. § 2461(c), forfeiting all right, title, and interest defendant BROCK B. BARRETT has in the foregoing firearm, for disposition according to law including destruction.

6. Pursuant to the provisions of 21 U.S.C. § 853(g), as incorporated by 28 U.S.C. § 2461(c), upon entry of this preliminary order of forfeiture, the Bureau of Alcohol, Tobacco, Firearms, and Explosives shall seize and take custody of the foregoing firearm for disposition according to law.

7. Further, pursuant to the provisions of 21 U.S.C. § 853(n)(1), as incorporated by 28 U.S.C. § 2461(c), upon entry of a preliminary order of forfeiture, the United States shall publish notice of this order and of its intent to dispose of the firearm according to law. The government may also, pursuant to statute and to the extent practicable, provide written notice to any person known to have alleged an interest in the property that is the subject of the preliminary order of forfeiture. The government is unaware at this time of anyone who qualifies for such notice.

8. Further, pursuant to the provisions of 21 U.S.C. § 853(n)(2), as incorporated by 28 U.S.C. § 2461(c), if, following notice as directed by this Court and 21 U.S.C. § 853(n)(1), as incorporated by 28 U.S.C. § 2461(c), any person, other than the defendant, asserts a legal interest in the property that has been ordered forfeited to the United States, within thirty days of the final

publication of notice or this receipt of notice under paragraph seven (7), whichever is earlier, and petitions the Court for a hearing to adjudicate the validity of this alleged interest in the property, the government shall request a hearing. The hearing shall be held before the court alone, without a jury.

9. Following the Court's disposition of all third party interests, the Court shall, upon the government's motion and if appropriate, enter a final order of forfeiture as to the aforementioned firearm which shall vest clear title in the United States of America.

10. The United States requests that the terms and conditions of this preliminary order of forfeiture entered by this Court be made part of the sentence imposed against defendant BROCK B. BARRETT and included in any judgment and commitment order entered in this case against him.

WHEREFORE, pursuant to the provisions of 18 U.S.C. § 924(d)(1), 28 U.S.C. § 2461(c) and Fed. R. Crim. P. 32.2, the United States requests that this Court enter a preliminary order of forfeiture as to the foregoing firearm in accordance with the draft preliminary order of forfeiture which is submitted herewith.

Respectfully submitted,

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